

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Petition for Rulemaking to Amend and)	WT Docket No. _____
Modernize Parts 25 and 101 of the)	
Commission's Rules to Authorize and)	RM-11791
Facilitate the Deployment of Licensed Point-)	
To-Multipoint Fixed Wireless Broadband)	
Service in the 3700 – 4200 MHz Band)	

To: The Federal Communications Commission

**NETMOBY, INC. COMMENTS IN FAVOR OF THE PETITION FOR
RULEMAKING OF THE BROADBAND ACCESS COALITION**

NetMoby, Inc. ("NetMoby"), hereby respectfully submits its comments with respect to the Petition for Rulemaking filed by the Broadband Access Coalition ("COALITION") in the above-captioned proceeding.^{1 2} NetMoby asks that the Federal Communications Commission ("Commission" or "FCC") approve the petition of the COALITION for the following reasons.

The COALITION petitioned the Commission for modification of its Rules³ governing the more efficient use of the 3700-4200 MHz band for Point-to-Multipoint ("P2MP") fixed operation.

¹ FCC Public Notice DA 17-786, Released August 18, 2017.

² Broadband Access Coalition, Petition for Rulemaking to Amend and Modernize Parts 25 and 101 of the Commission's Rules to Authorize and Facilitate the Deployment of Licensed Point-to-Multipoint Fixed Wireless Broadband Service in the 3700 – 4200 MHz Band.

³ 47 C.F.R. § 25 and § 101.

The Coalition Provides Abundant Evidence That Grant Of Its Petition Will
Maximize The Efficient Use Of The Currently Underutilized
3700-4200 MHz Band of Spectrum

The COALITION declares that by the Commission's grant of their Petition, efficient use of the 3700-4200 MHz spectrum will be maximized. NetMoby agrees. The COALITION cites that the band is currently used by about⁴ one-hundred and eighteen (118) Fixed Station point-to-point microwave licensed stations predominantly situated in rural locations. —, so no one knows the actual FS station quantity with any certainty because many were never built (and thus should have had their 15-year license revoked) or are decommissioned. Yet these very dead "ghost" stations continue to be treated as though they exist and the digital divide continues to fester as high speed P2MP communications is stymied from being activated in such areas because of the non-availability to Wireless Internet Service Providers ("WISP")⁵. 3700-4200 MHz must be expanded to P2MP usage immediately. Below 6 GHz, the 3700-4200 MHz band is the largest underutilized swatch of spectrum that is managed by the Commission.

Worthy of notation here is that many Veteran (like NetMoby), minority (like NetMoby), women, tribal and small business owners (like NetMoby), are thwarted from their quest to establish relatively low cost, high quality, licensed, wireless broadband provisioning opportunities if the COALITION petition is not granted. Because of the untenable cost of acquiring spectrum via auctions, leasing or outright purchases of entities that own spectrum, such as for 4G LTE service, small, minority and veteran entrepreneurs are

⁴ We place emphasis on the word "about" because FS and FSS operators in the subject Band have not maintained their current status in the manner prescribed by the Commissions current rules, i.e., IBFS database updates).

⁵ Approximately 3,000 WISP serve millions of U.S. broadband customers. See <http://www.wispa.org/About-Us>

basically shut out from provisioning the public with interference-free fixed broadband wireless access services that can be provisioned over sub-6 GHz spectrum.

Commissioner Mignon L. Clyburn's biography⁶ reflects that "She has pushed for media ownership rules that reflect the demographics of America" and we believe that philosophy and fairness doctrine is adopted by the entire Commission leadership. As of 22 August 2017, the "demographics of America" have nowhere near been reached with respect to licensure of any wireless service governed by the Commission. Approval of the COALITION Petition is therefore imperative if Commissioner Clyburn's goal is to ever come to fruition.

The 3.55-3.70 GHz CBRS spectrum does not provide for channel bandwidths that can offer anywhere close to half to full gigabit service, whereas the 3700-4200 MHz band is 500 MHz wide thus enabling plentiful 20, 40, 80 and 160 MHz-wide channels to provide a tiered bandwidth offerings to the public. FCC Chairman Pai recently opined that the 25 Mbps download speed that currently defines "broadband" should be upped four-fold to 100 Mbps. Senator Schumer and the State of New York clearly agree.⁷ In view of the potential near-future adoption of 100 Mbps as the new definition of broadband and in view of other countries rolling out gigabit service, the U.S. will be left behind as we

⁶ See https://www.fcc.gov/about/leadership/mignon-clyburn?qt-leadership_tabs=0#qt-leadership_tabs

⁷ See <https://www.schumer.senate.gov/newsroom/press-releases/senator-schumer-governor-cuomo-congressman-collins-announce-more-than-170-million-secured-to-help-expand-broadband-across-upstate-ny>. "Many Upstate New York homes do not meet New York's enhanced goal of 100 Mbps nor the FCC's broadband benchmark speeds of 25 megabits per second (Mbps) for downloads and 3 Mbps for uploads." Further, "According to the FCC's 2015 report, using this updated service benchmark means that approximately 55 million Americans – 17 percent of the total population – lack access to advanced broadband. This divide is particularly evident between urban and rural areas. In fact, more than half of all rural Americans lack access to 25 Mbps/3 Mbps service."

further delay amendment of the rules to allow for P2MP operation of, especially, 40, 80 and 160 MHz wide channels that can yield 100 Mbps+ service.

Multi-Tenant Environments (MTEs) hold a card in this game in that broadband wireless access to apartment buildings, condominiums, hotels and office complexes are all p likely WISP targets for the rollout of 3700-4200 MHz P2MP service. It is imperative that in synchronization with the Commission's actions on RM-11791, that it address the barriers property owners and incumbent cable and telephone carriers put up against WISP attempting to offer service in MTEs.⁸ NetMoby, subsequent to this filing, will file comments on Exploring Flexible Use in Mid-Band Spectrum Between 3.7 GHz and 24 GHz.⁹ Notice of Inquiry, GN Docket No. 17-183

Analogous To The Historic Entitlement UHF Television Operators
Believed They Had for TV Channels 70-83 Prior to its Being
Repurposed for Domestic Public Cellular Radio Telecommunications
Service, Incumbent FS/FSS Operators Should Not Receive
Preferential Treatment Purely Because Of Incumbency

There exist no rule, regulation, policy or doctrine within the 47 C.F.R., or specifically in Parts 25 or 101 of the Rules or the Communications Act that suggest or requires spectrum to be allocated in a favorable manner to incumbent wireless operators. After the 60 year reign of the Communications Act of 1934, it was overhauled and enacted

⁸ See NetMoby comments under GN Docket No. 17-142, "Improving Competitive Broadband Access to Multiple Tenant Environments."

⁹ FCC Notice of Inquiry, GN Docket No. 17-183, Released August 18, 2017.

into law under the 104th Congress and the Telecommunications Act of 1996 was borne.¹⁰

Preserved from 1934, however, was the principle of opening up markets to competition by removing regulatory barriers to entry. NetMoby conducted a word count of certain words in the Act and discovered that the word “competitive” was used 25 times, the word “competition” was used 21 times, the word “competitor” was used 4 times and the word “barriers” was used 11 times. The foregoing indeed indicates the sincere intention of the Congress and the Commission, throughout the Act, to be fair. To continue to allow the big carriers to merely provide low performance DSL in rural areas where they have deemed their investment in faster Internet service infrastructure is not warranted from a profitability standpoint has business merit, but consequently continues to cripple the FCC’s good intention of trying to remedy the massive digital divide and further cripples individuals, households, business enterprises and small rural governments from the educational, commerce and collaborative benefits urban dwellers enjoy and leverage to their benefit. The WISP community, including NetMoby, and manufacturers of WISP radio access hardware are standing by to remedy this social and technology gap.

Accordingly, here comes the COALITION with a nothing less than fantastic plan to take a gigantic bite out of the digital divide by proposing the use of frequencies that offer good propagation characteristics. Not permitting P2MP operations in the 3700-4200 MHz Band inhibits competition by stymieing new entrants who have the technical ability, funding and drive to establish excellent services over the subject Band that would greatly benefit the public, provide for healthy competition in the marketplace and

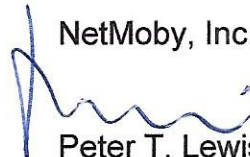
¹⁰ Public Law 104–104 — February 8, 1996.

eradicate unnecessary barriers within the Commission's Rules.

CONCLUSION

As of this writing, over 600 commenters have filed under this RM-11791 proceeding and the super-majority are in favor of the petition. That speaks volumes. For all the foregoing reasons, NetMoby respectfully requests that the Commission APPROVE the Broadband Access Coalition Petition and move towards the establishment of an NPRM to memorialize and act on the recommendations therein.

Respectfully Submitted,


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